

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, DECEMBER 22, 2008

7:00 p.m. Call to Order

I. APPROVAL OF MINUTES

December 8, 2008

II. MANAGER'S REPORT

III. PUBLIC DISCUSSION

IV. LEGISLATION AND POLICY

08 – 188. To hear a report from the Doane Property Advisory Committee and forward to the Planning Board for Public Hearing and recommendation.

08 – 189. To consider and act upon establishing a Village Center Committee.

08 – 190. To consider and act on amendments to Sections 4, 5 & 8 of the Cumberland Property Tax Assistance Ordinance to lengthen the dates for application submissions, determinations of eligibility, and payments.

08 – 191. To set a Public Hearing date (January 12th) to act on the 2009 Municipal Warrant for unlicensed dog owners/keepers.

08 – 192. To set a Public Hearing date (January 12th) to consider and act on the Greely High School Swimming Pool License renewal for calendar year 2009.

08 – 193. To re-appoint the Town Clerk as Register of Voters for the period of *January 2009 – January 2011*.

08 – 194. To accept an anonymous donation to the town's General Assistance Fund to be used for fuel assistance.

V. NEW BUSINESS

VI. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, DECEMBER 8, 2008

6:00 p.m. Workshop
7:00 p.m. Call to Order

6:00 p.m. WORKSHOP with the Shellfish Conservation Commission re: clam-flat access

ROLL CALL:

Present: Chairman Turner, Councilors Copp, Storey-King, Porter, Stiles and Moriarty. Councilor Perfetti arrived at 7:17 p.m.

I. APPROVAL OF MINUTES

November 24, 2008

Motion by Councilor Porter, seconded by Councilor Stiles to approve the minutes as presented.

VOTE: UNANIMOUS 6-0

II. MANAGER'S REPORT

- Weather has delayed the Corey Road drainage project.
- Public Works crews did not work the roads yesterday in order to conserve on overtime costs. Salting did occur early this morning.

III. PUBLIC DISCUSSION

None.

IV. LEGISLATION AND POLICY

Chairman Turner addressed Item 08-183 out of order to hear from Leslie Fitzgerald regarding the annual Yule Market. Ms. Fitzgerald shared the event will be held this year on Sunday, December 14th between 3:30 and 6:00 p.m. at the Mable I. Wilson School lot. If a winter storm occurs on that day, the event will be canceled and not rescheduled because rescheduling proved problematic last year. They expect the school building will serve as a 'wind break' and provide more visibility and parking – two concerns expressed by patrons attending the event in past years. If funds become available at any future point, Ms. Fitzgerald requested the council consider financial support for the purchase of sheds for farmers participating in the event.

08 – 181. To hear a report from State Senator Gerald Davis and Representative Meredith Strang-Burgess re: the upcoming legislative session.

Senator Davis and Representative Strang-Burgess provided an update on the makeup of the house and Senate, noting particularly that Libby Mitchell is the first woman in American history to serve as both state Speaker of the House and Senate President. The Maine House and Senate began its session last Wednesday "only to do the constitutional work. Budget, budget and budget are going to be the top agendas," expecting the session ahead to include

“the good, the bad and the ugly.” Governor Baldacci has issued a curtailment order of \$87million. “A wonderful wave of energy is underway and a good spirit of bipartisanship. Everybody’s in this boat” together. Of particular note, energy “is on the minds of all of our citizens.” Wind farms are a topic of conversation by many. Ms. Strang-Burgess informed the council she has requested to serve as a member of the Education Committee for a second term. Senator Davis echoed her comments regarding budget issues. Councilor Porter asked what cuts the municipalities and school districts can expect. Representative Strang-Burgess could definitively note only that the Governor’s curtailment order is ten percent at this time. Councilor Porter also referred to the Yarmouth School Superintendent’s resignation announcement, suggesting this is a “perfect opportunity” for school consolidation. Town Manager Shane requested legislative support for SAD 51’s alternative plan, adding, we are within 50 students of meeting the 1,200 student threshold and could easily meet that threshold with tuition students. In response, Representative Strang-Burgess stated, “She’s (Commissioner Gendron) pretty clear where I stand on that one.” Chairman Turner expressed appreciation for the update and suggested the town will be well-served by Senator Davis and Representative Strang-Burgess.

08 – 182. To hear a report from Central Maine Power Company re: a new substation and transmission lines at the Cumberland/Yarmouth town line.

Larry Benoit, Government Solutions, and representing CMP, provided an overview of the substation improvement project. Cianbro was hired in 2007 to manage this “large scale” project. CMP determined a comprehensive analysis of the bulk power transmission system which carries large amounts of electric power throughout the state and interconnects to New Hampshire and the rest of the United States grid was needed. There has been no major investment in the system since 1971, but there has been significant population growth, especially in southern Maine, creating a doubling of the power consumption. “The system is presently reliable but major problems could lie ahead.” Forecasted peak power loads in the year 2017 show a growing risk of major blackouts requiring system improvements “much earlier than that.” A summary of key findings include: insufficient 345 kv transmission lines; insufficient capacity to transform 345kv to lower voltage; a lack of sufficient transmission infrastructure in almost all regions of the state; lines near capacity; and insufficient thermal capacity. The assessment also showed a demand for additional 345kv lines and transformers for central and southern Maine and several lines added or upgraded to address growth. While alternative routes were studied, it was determined to maintain existing right-of-ways and routes with some widening from 50 to 65 feet. The study also showed a need for investments by 2012. CMP petitioned the PUC for a certificate to invest in a solution for 485 miles of rebuilt lines at a cost of \$1.4 billion dollars, with 92% of the cost borne by ratepayers outside the state. Environmental assessments have been completed on much of the right-of-way and substation sites. The investment involves only the high-level grid and not the local power grid. CMP is a couple of months away from filing permits for the substation. This project will be the largest commercial investment in Maine history in a single program. “This is a very important and very large scale program to ensure reliability of Maine’s power transmission system.”

CMP looked at the possibility of building an upgrade to the Yarmouth Elm Street substation, but found the site was too small. The only real solution is to locate a new substation, and they propose to bring a new 345 kv line past the current substation and build a new substation in Cumberland, tentatively named Raven Farm, with a total footprint of just over 20 acres. Property acquisition discussions are under way now. The Gorham substation, while considered for upgrade, proved to be “quite a bit more money;” approximately \$20 million additional. “This substation will meet the needs identified...in the study and ensure we’re able to provide power reliably to the Greater Portland area.” The cost estimate

on this piece is estimated at approximately \$27 million in labor and materials costs. Other costs allocated to the project bring the total to \$37 million. "This is a very substantial facility."

Mr. Benoit also addressed issues previously raised by the Town Manager. Concerns included special requirements for fire prevention and protection - there is "nothing unique" for public safety requirements, but CMP is pleased to set up a program with the local public safety personnel to review procedures and methodology regarding response plans; lighting - a light at the entrance, perimeter down-lighting and special floodlighting for use only when the facility has maintenance operations; building - a small control building on the site with a bathroom used only during maintenance or emergency operations; and noise - standards will meet or exceed the minimum requirements established by DEP.

Councilor Porter questioned and was informed that access is from Greely Road. Councilor Porter also questioned value and taxable revenue, clarifying for residents that the project cost will not necessarily serve as the assessed value. Councilor Storey-King asked about tree removal and site consumption. Mr. Benoit explained the auto transformer is a very large and substantial unit requiring concrete pads. "It all has to be cleared and leveled. It (the 20 acres) would be the entire substation." Councilor Copp asked about displacement of homes. There are approximately six parcels and as many as four homes. The negotiations are underway now to acquire an option to purchase these properties. CMP's policy is to provide fair market value. Councilor Porter clarified the six properties are in Cumberland. Councilor Perfetti asked about taking by eminent domain. "It doesn't apply in all locations." CMP very rarely uses eminent domain. Councilor Storey-King emphasized that these homes are on land that has been in families for a very long time. Many could not afford to buy or build another house in Cumberland and requested this fact "play into your consideration. Chairman Turner reiterated that a family enclave is "almost irreplaceable" when you consider the family that wants to stay in Cumberland. "Hopefully they can replace what they have with something near similar." Chairman Turner asked about buffering of the site. "Your own ordinance will be a guide," responded Mr. Benoit, expressing confidence that open discussions will occur between town staff and the design team. "It's to our benefit to try to find some solutions to these types of issues." The Manager has received comments regarding sound attenuation by abutters and asked when abutters should "get involved." Four public information meetings have been held thus far and abutters did receive notice of the hearings. Additionally, the DEP public hearings will allow for comments regarding noise. "Those would be the best two avenues for public input to the actual local impacts." The Manager added that in its intervener status, the town considers lighting and sound as two very important issues. Mr. Benoit indicated the concerns were relayed to the design team. "We'll try to address all of your concerns."

Chairman Turner opened the item to public comment. A resident asked if the site plan could be added to the town web page. Mr. Benoit informed everyone that information can be found on the mainepower.com website. Manager Shane added this meeting would be rebroadcast on several occasions and available at the library.

08 – 183. To hear a report re: the annual Yule Market to be held on December 14th in the parking lot of Mabel I. Wilson School.

08 – 184. To hold a Public Hearing to consider and act on extending the Senior Circuit Breaker Program application deadline to January 18, 2009.

Councilor Stiles explained the Circuit Breaker Committee is proposing ordinance amendments including extending the deadline for submission of circuit breaker applications; lowering the eligibility age from 70 to 67; and increasing the maximum assistance to \$750. "We currently have 45 applicants and we welcome" additional applicants. "If your property taxes are greater

than 4% of your annual income, please apply. Many people are eligible, but many people don't apply." Councilor Storey-King clarified that there are no age restrictions with the state circuit breaker program. No public comments received.

Councilor Porter moved, seconded by Councilor Perfetti, to extend the senior circuit breaker application deadline from November 15 to January 18, 2009.

VOTE: UNANIMOUS PASSAGE 7-0

Councilor Storey-King moved, seconded by Councilor Stiles, to add the proposed ordinance amendments to the 12/22 agenda as a public hearing item.

VOTE: UNANIMOUS PASSAGE 7-0

08 – 185. To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 424.3.8, Temporary Political Signs, as recommended by the Planning Board.

Councilor Moriarty, representing the council's Ordinance Committee, began by reassuring the council and public "we don't have a problem with political signs in Cumberland." No political sign issues arose during the Presidential election. A request was made to the council after the placement of an offensive sign during the Forest Lake Referendum election. During its review, the Planning Board clarified the ordinance should not attempt to regulate signs placed on private property. There is no attempt here to regulate free speech.

The Town Manager noted this ordinance amendment requires approval by the MDOT because it impacts both state roads and town roads. He recommended adoption of the ordinance amendment subject to MDOT review and approval. No comments were received during public hearing.

Councilor Porter commented, "I hope that if we're going to do this, we're going to enforce this." Councilor Moriarty responded that without this amendment the town could not enforce the ordinance as it relates to state roads.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to repeal the current section of the Cumberland Zoning Ordinance and replace it with the new ordinance contained in the packet this evening, subject to MDOT approval.

VOTE: UNANIMOUS PASSAGE 7-0

Section 424.3.8 of the Cumberland Zoning Ordinance, Temporary Political Campaign Signs, is repealed and replaced with the following language:

.8 Temporary political campaign signs may be erected in any zone under the following terms and conditions:

.1 A resident of Cumberland may erect temporary political campaign signs within the right of way of a town or state public way directly abutting the resident's property without obtaining a permit from the Town. Temporary political campaign signs must not individually exceed sixteen (16) square feet in size.

No temporary political signs may be erected more than six weeks prior to the election for which signs pertain.

No temporary political campaign signs shall be closer than five (5) feet from the travel surface of the town or state public way and no such signs may encroach over in the air space of the paved surface of any town or state public way.

Temporary political campaign signs must be removed within seven (7) days following the election.

- .2 *A candidate for political office, a political campaign, a political party or organization, an advocacy organization, or a Cumberland resident may erect temporary political campaign signs within the right of way of a town or state public way in the Town of Cumberland but only after obtaining a permit for the display of such signs from the Code Enforcement Officer and payment of a refundable application fee as established by order of the Town Council. Applications for such signs shall be made on forms provided by the Code Enforcement Officer. Temporary political campaign signs must not individually exceed sixteen (16) square feet in size.*

No temporary political campaign signs may be erected more than six weeks prior to the election for which such signs pertain.

No temporary political campaign signs shall be closer than five (5) feet from the edge of the travel surface of a town or state public way and no such signs may encroach over in the air space of the paved surface of any town or state public way.

Temporary campaign signs must be removed within seven (7) days following the election, and upon such removal the Code Enforcement Officer shall refund the application fee. If such signs are not removed within seven (7) days following the election, the application fee shall be forfeited to the Town.

08 – 186. To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 204.8.1.8, to delete self-storage facilities as a permitted use in OC-S (Office Commercial – South), as recommended by the Planning Board.

The Manager explained self-storage units were permitted within David Chase’s Route One Contract Zone. As a part of the expansion of the OC South Zone, the Planning Board recommended the exclusion of self-storage facilities elsewhere in the OC Zone. In other words, self-storage facilities “would not be a permitted use in the Town of Cumberland” except that the use is a “grandfathered” use for Mr. Chase because it is provided for in the Contract Zone. No public comments were received.

Councilor Storey-King indicated she would vote in opposition of the ordinance amendment. “It seems a little random.” She does not support telling owners of commercial property what they can and can not do with their property. “They can be done tastefully. It just seems a little arbitrary at this point.”

Motion by Councilor Copp, seconded by Councilor Moriarty, to amend the Cumberland Zoning Ordinance, Section 204.8.1.8, to delete self-storage facilities as a permitted use in OC-S (Office Commercial – South) as recommended by the Planning Board.

VOTE: PASSAGE 6-1 (Councilor Storey-King)

08 – 187.

To set a Public Hearing date (December 22nd) to appoint members to Town Board/Committees for 2009.

Motion by Councilor Porter, seconded by Councilor Stiles to table this item until January 12, 2009.

VOTE: UNANIMOUS PASSAGE 7-0

V. NEW BUSINESS

Councilor Copp – asked Town Manager if we have received a ruling on Greenlaw's Salvage (we have not); asked whether the name of the bank interested in locating on Main Street is known yet.

Councilor Perfetti – attended the Fire Dept's Toys for Tots pancake breakfast - great event; requested a 12/22 agenda item re: creating a Village Center (zone change) Committee, with at least 2 town council liaisons.

Councilor Storey-King – congratulated Carolyn Curry on the recent release of her new musical cd; can be purchased at Gift and Vine, in Yarmouth; which is owned by a Cumberland resident; Cumberland resident clamming licenses available now for gift giving; thanked the Town Manager for installing parking ban notices around town – winter parking ban is in effect now.

Councilor Stiles – reminder that muzzle loading season continues for one more week; Turkey Lane snowmobile bridge has been completed; good job by town staff.

Motion by Councilor Copp, seconded by Councilor Stiles, to recess to Executive Session pursuant to 36 M.R.S.A., Section 841 re: Poverty Abatement.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 8:49 pm

VI. EXECUTIVE SESSION – pursuant to Title 36 M.R.S.A., § 841, re: Poverty Abatement Application.

Motion by Councilor Perfetti, seconded by Councilor Porter, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 9:20 p.m.

Motion by Councilor Stiles, seconded by Councilor Moriarty, to deny the poverty abatement request for Map R08, Lot 36B.

VOTE: PASSAGE 6-1 (Councilor Storey-King)

TIME: 9:20 p.m.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to adjourn.

VOTE: PASSAGE 7-0

TIME: 9:30 p.m.

Respectfully submitted,

Nadeen M. Daniels, CMC
Town Clerk